

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2390

Introduced by Assembly Member Muratsuchi

February 21, 2014

An act to add Section 43870 to the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2390, as amended, Muratsuchi. Low Carbon Fuel Standard: Green Credit Reserve.

Existing law requires that the State Energy Resources Conservation and Development Commission, in partnership with the State Air Resources Board, and in consultation with specified state agencies, develop and adopt a state plan to increase the use of alternative fuels, as defined, not later than June 30, 2007.

The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020, equivalent to the statewide greenhouse gas emissions levels in 1990. The state board is additionally required to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions. Pursuant to the act, the state board has adopted the Low Carbon Fuel Standard (LCFS) regulations. Under

federal law, the Renewable Fuel Standard (RFS) is administered by the United States Environmental Protection Agency.

This bill would require the ~~Governor~~ *Treasurer*, by June 30, 2015, to ~~designate a state agency to establish and administer~~ a Low Carbon and Renewable Fuels Credit Reserve (Green Credit Reserve or Reserve) to facilitate and encourage the development of renewable and low carbon transportation fuels produced in California from in-state feedstocks by providing stability and predictability for the value of credits generated by the production of those fuels pursuant to the ~~low carbon~~ *low-carbon* fuel standard and the federal renewable fuel standard. The bill would provide for the Green Credit Reserve to enter into specified contracts with developers of projects that are intended to produce renewable and low-carbon transportation fuels that qualify for state and federal ~~low carbon~~ *low-carbon* or renewable fuel credits, and that will commit the Reserve to purchase the LCFS and RFS credits at a contracted price when the renewable fuel is produced and the credits are certified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) On January 18, 2007, Governor Arnold Schwarzenegger
- 4 issued Executive Order S-01-07 ordering that a statewide goal be
- 5 established to reduce the carbon intensity of California’s
- 6 transportation fuels by at least 10 percent by 2020 and requiring
- 7 that a ~~low carbon~~ *low-carbon* fuel standard for transportation fuels
- 8 be established for California.
- 9 (b) In January 2010, the State Air Resources Board adopted
- 10 regulations to implement the Low Carbon Fuel Standard (LCFS)
- 11 (Sections 95480 to 95490, inclusive, of Title 17 of the California
- 12 Code of Regulations), which will reduce greenhouse gas emissions
- 13 by reducing the full fuel-cycle, carbon intensity of transportation
- 14 fuels used in California by 10 percent by 2020. Under the LCFS,
- 15 all refiners, blenders, producers, or importers of transportation
- 16 fuels in California are required to reduce the carbon intensity of
- 17 their fuels, or purchase LCFS credits, as necessary, to comply with
- 18 the LCFS.

1 (c) The federal Renewable Fuel Standard (RFS), created under
2 the Energy Policy Act of 2005, established a national renewable
3 fuel volume mandate. Under the Energy Independence and Security
4 Act of 2007, the RFS was expanded to include additional fuels,
5 renewable fuel categories, and increased volumes of renewable
6 fuels. Under the program, petroleum refiners and importers of
7 gasoline are required by the United States Environmental Protection
8 Agency to obtain sufficient renewable fuel credits, known as
9 Renewable Identification Numbers (RINs), to show that they have
10 complied with their obligations.

11 (d) LCFS and RFS credits can have significant value, over and
12 above the market value of the fuel itself. When the value of LCFS
13 and RFS credits is combined with the underlying value of the fuel,
14 the fuel can command a premium price, far above the value of
15 conventional petroleum fuels. Yet companies that wish to invest
16 in plants and equipment to produce ~~low-carbon~~ *low-carbon*
17 transportation fuels that qualify for the state's LCFS and the federal
18 RFS may find it difficult to secure adequate financing if banks and
19 other financing sources provide financing based only on the
20 projected value of the fuel produced and not based upon the
21 anticipated but uncertain future value of LCFS and RFS renewable
22 fuel credits.

23 (e) Developers of projects to produce renewable and ~~low-carbon~~
24 *low-carbon* transportation fuels and institutions that finance those
25 projects may benefit from a mechanism to provide stability and
26 predictability for the value of credits earned pursuant to the state's
27 LCFS and the federal RFS. That mechanism would allow financial
28 institutions to provide financing based on the full value of
29 renewable and ~~low-carbon~~ *low-carbon* fuel that is produced,
30 including the value of the LCFS and RFS credits generated by the
31 production of the fuel.

32 (f) It is in the interest of the state to establish a Low Carbon and
33 Renewable Fuels Credit Reserve (Reserve), to enter into long-term
34 voluntary contracts with developers of projects to produce
35 renewable and low-carbon transportation fuels in this state that
36 will commit the Reserve to purchase the LCFS and RFS credits at
37 a contracted price at such time as the renewable fuel is produced
38 and the LCFS or RFS credits are certified. The Reserve would, at
39 its discretion, hold and eventually sell the credits to refiners,

1 blenders, producers, and importers of transportation fuels that are
 2 subject to the LCFS and RFS.

3 (g) The Reserve will provide stability and predictability for the
 4 value of LCFS and RFS credits and allow project developers to
 5 obtain long-term financing based on the full value of the project.
 6 It additionally will stimulate innovation, create jobs in California,
 7 and further enhance the ability of parties subject to the LCFS and
 8 RFS to comply.

9 SEC. 2. Section 43870 is added to the Health and Safety Code,
 10 to read:

11 43870. (a) For purposes of this section, the following terms
 12 have the following meanings:

13 (1) “CARBOB” means California reformulated gasoline
 14 blendstock for oxygenate blending.

15 ~~(1)~~

16 (2) “Green Credit Reserve” or “Reserve” means the Low Carbon
 17 and Renewable Fuels Credit Reserve.

18 ~~(2)~~

19 (3) “LCFS” means the Low Carbon Fuel Standard administered
 20 by the state board pursuant to Sections 95480 to 95490, inclusive,
 21 of Title 17 of the California Code of Regulations.

22 ~~(3) “RFS” means the Renewable Fuel Standard administered~~
 23 ~~by the United States Environmental Protection Agency pursuant~~
 24 ~~to the federal Energy Policy Act of 2005 as later modified by the~~
 25 ~~federal Energy Independence and Security Act of 2007 and any~~
 26 ~~future modifications to that program.~~

27 (4) “LCFS credit” means a marketable credit associated with
 28 the production and use of a ~~low-carbon~~ low-carbon fuel pursuant
 29 to the requirements of the state LCFS.

30 (5) “Renewable and low-carbon transportation fuel” means a
 31 transportation fuel that is derived from a renewable resource, as
 32 determined by the State Air Resources Board, and has a carbon
 33 intensity that does not exceed 50 percent of the carbon intensity
 34 of CARBOB or diesel fuel, as applicable, as of the date of contract
 35 execution pursuant to subdivision (e).

36 (6) “RFS” means the Renewable Fuel Standard administered
 37 by the United States Environmental Protection Agency pursuant
 38 to the federal Energy Policy Act of 2005 as later modified by the
 39 federal Energy Independence and Security Act of 2007 and any
 40 future modifications to that program.

1 ~~(5)~~

2 (7) “RFS credit” means a marketable credit, also referred to in
3 the RFS as a Renewable Identification Number, or RIN, that is
4 associated with the production and use of a renewable fuel pursuant
5 to the requirements of the federal RFS.

6 (b) Not later than June 30, 2015, ~~the Governor shall designate~~
7 ~~a state agency to establish and administer~~ *Treasurer shall establish*
8 a Green Credit Reserve. The purpose of the Reserve shall be to
9 facilitate and encourage the development of renewable and ~~low~~
10 ~~carbon~~ *low-carbon* transportation fuels produced in California
11 from in-state feedstocks by providing stability and predictability
12 for the value of credits generated by the production of those fuels
13 pursuant to the LCFS and RFS. *The Treasurer shall coordinate*
14 *with the State Air Resources Board to adopt criteria and guidelines*
15 *for the Reserve that ensure that it meets these purposes.*

16 (c) In order to carry out its purpose, the Reserve shall do all of
17 the following:

18 (1) Enter, at the discretion of the Reserve, into long-term
19 contracts with developers of projects, as defined in subdivision
20 (d), that are intended to produce renewable and low-carbon
21 transportation fuels in California from in-state feedstocks that
22 qualify for the state’s LCFS and the federal RFS. The contracts
23 shall commit the Reserve to purchase credits, at a price established
24 pursuant to paragraph (2), when the project developer produces
25 qualifying fuel and the credits are certified.

26 (2) Guarantee, at the time of contract execution, a price or price
27 schedule for the purchase of LCFS and RFS credits that the Reserve
28 determines is sufficient to support financing of the project without
29 subjecting the state to unnecessary risk.

30 (3) Hold credits purchased pursuant to paragraph (1) until ~~such~~
31 *the time as* the Reserve deems it appropriate to sell the credits.

32 (4) Sell credits to qualified parties under the LCFS and RFS.

33 (5) Manage the purchasing, holding, and selling of LCFS and
34 RFS credits so as to minimize the risk of financial loss to the state.

35 (6) Develop criteria to be used by the Reserve in evaluating
36 projects with which to contract, including consideration of whether
37 an auction mechanism should be employed and, if so, the type of
38 auction, in the event that suitable projects exceed the capital
39 resources available to the Reserve.

1 (7) Develop mechanisms for the Reserve to use when it sells
2 credits to qualified parties pursuant to the state's LCFS and the
3 federal RFS, including consideration of whether an auction
4 mechanism should be employed, and if so, the type of auction.

5 (8) Develop contractual terms and conditions to be included in
6 contracts between project developers and the Reserve.

7 (9) Obtain any federal approvals necessary to authorize the
8 Reserve to purchase, hold, and sell RFS credits.

9 (10) Recommend any statutory changes necessary or useful to
10 the establishment or administration of the Reserve.

11 (d) For purposes of this section, projects that are intended to
12 produce renewable and low-carbon transportation fuels in
13 California from in-state feedstocks that qualify for the state LCFS
14 and the federal RFS include the following:

15 (1) Facilities that produce transportation fuels from agricultural,
16 *livestock, food, or food processing* waste that is remaining after
17 ~~all reasonably usable~~ *economically recoverable* food content is
18 extracted, *and from nonfood crops*.

19 (2) Facilities that produce transportation fuel from forest waste
20 produced from sustainable forest management practices.

21 (3) Facilities that capture and clean landfill gas that is used for
22 transportation fuels.

23 (4) *Wastewater treatment facilities that produce transportation*
24 *fuels from biogas or biosolids*.

25 ~~(4) Digester gas facilities, including wastewater treatment,~~

26 (5) *Other facilities* that produce transportation fuels *from organic*
27 *waste*.

28 (e) Long-term contracts for the purchase of credits by the
29 Reserve shall be made available not later than September 1, 2015.
30 Contracts may be for a term that does not exceed the total amount
31 of time included in all of the following provisions:

32 (1) A time period, as specified in the contract, to finance, design,
33 and construct a facility to produce the fuel that is expected to
34 produce LCFS credits or RIN credits as those credits are defined
35 at the time the contract is entered into.

36 (2) A defined start-up period to begin commercial-scale
37 production of the fuel.

38 (3) A period of time, as specified in the contract, but not more
39 than 15 years after the start-up period, for the production of the
40 fuel.

1 (f) The Reserve is obligated to purchase only those LCFS and
2 RFS credits that are actually produced by the fuel producer, that
3 meet the requirements of the contract and the requirements of the
4 LCFS or RFS in effect at the time the contract is executed, and
5 that are certified at the time they are generated. Future amendments,
6 modifications, or changes to the RFS or LCFS that are made after
7 the contract execution date shall not affect the requirements of the
8 Reserve to purchase the RFS credits or LCFS credits, or their
9 equivalent, as those terms are defined at the time the contract is
10 executed.

11 (g) The Reserve shall not enter into contracts for the purchase
12 of LCFS or RFS credits from LCFS obligated parties or RFS
13 regulated parties that are required to obtain and retire those credits
14 pursuant to the LCFS and RFS.

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